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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

FOULADI SEMNANI, FARANAK

ART UNIT PAPER NUMBER

2672

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/939,938

Applicant(s)

LAMBERTSEN, KIRSTEN

Examiner

Faranak Fouladi

Art Unit

2672

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-13.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: PTO-892 Notice of References Cited is also attached.

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments filed on 01/15/2004 have been fully considered but they are not persuasive.

1. Regarding independent claim 1, "a makeover method, such method comprising the steps of:

configuring a computer to receive a facial image

[applicant admitted prior art, specification page 3 lines 12-15; applicant has stated "One of ordinary skill in the art will readily appreciate that several different methods and systems exist for uploading and viewing images, and that all known methods and systems can be used with the present invention."];

providing a plurality of templates corresponding to features on a facial image, each templates being user-adjustable to allow the user to specify features on the facial image

[Amended Specification page 10 line 28 to page 11 line 2 states "Once a photograph is uploaded, the users may outline 22 the features 70 using the tools for outlining 80. When the selected features 70 are outlined, the user can then instantly apply beauty products to a desired feature without having to draw and/or paint." Examiner interprets this to be a step that helps the user to locate different areas on the facial image. Rigg disclose in col. 2 line 47-48 "The program locates color requiring areas such as the lips, cheeks and eyes."];

providing a catalog of beauty products enabling the user to specify particular products to apply to the specified features [Rigg disclose in col. 3 lines 6-10]; and

enabling a user to modify the image to form a made over facial image having the particular products applied to the specified features, thereby enabling the user to visualize an intended makeover

[Rigg disclose in col. 3 lines 4-10].

Rigg also disclose in col.1 line 37-40 a software to manipulate facial structures. A user needs to specify a feature first to manipulate it, and also the user can adjust the feature by manipulation.

Rigg disclose in col.2 line 59-63 identifying the natural skin color and accepting feedback from the customer thus giving customer contro over application of the makeup.

2. Regarding Claim 6 applicant argues on page 7 of amendment B in second paragraph "Linford discloses methods for modifying actual features in an image. - Linford does not teach or even suggest providing a plurality of pre-configured movable shapes, much less movable shapes formed from plurality of lines connected by a plurality of points which together form the shape."

But specification page 11 line 4-8 states "The term "features," as used herein, is understood to refer to various, discrete regions of a person's face, or an image of a face, to which one or more beauty products are commonly applied.... The shape of each feature can be altered, or "outlined" by a user." and Linford also disclose methods for modifying features.

Furthermore, specification page 11 line 10-13 states "The shapes are defined by a series of points 50 connected by lines 52 to form a desired shape. The user can select and move a point 50, thus changing the shape of the outline. Each time a user moves a point 50, the lines 52 connected to the point 50 move with it." and Linford also disclose this in col. 14 lines 34-60.

In addition, according to claim 6, each movable shape comprises a plurality of lines and user is able to move each line and this helps user to modify a feature shape to a new shape and also according to applicant himself (amendment A, first paragraph on page 9 line 3-4 "Linford is specifically limited to the use of pen for drawing lines that are movable to modify a particular facial feature.") and Linford disclose the same in his invention.



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